

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 91-066
NPDES PERMIT NO. CA0037842

AMENDMENT OF WASTE DISCHARGE REQUIREMENTS, ORDER NO. 89-012

CITIES OF SAN JOSE AND SANTA CLARA
SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT
SAN JOSE
SANTA CLARA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. The Board adopted Order No. 89-012 (NPDES permit), reissuing waste discharge requirements for the Cities of San Jose and Santa Clara (hereinafter called the discharger) on January 18, 1989. The Cities discharge tertiary treated effluent from the Water Pollution Control Plant into Artesian Slough, tributary to Coyote Creek and South San Francisco Bay.
2. The Basin Plan prohibits discharges receiving less than 10:1 minimum initial dilution, discharges to dead-end sloughs, and discharges south of the Dumbarton Bridge. Discharge south of the Dumbarton Bridge is also prohibited by the State Water Resources Control Board's Bays and Estuaries policy.
3. The Basin Plan allows exceptions to the discharge prohibitions using the criteria of net environmental benefit, reclamation, or equivalent protection. Order 89-012 found that the discharger's treatment plant effluent could not support a finding of net environmental benefit, because of the harmful effect of the discharge on endangered species habitat. Order 89-012 found that net environmental benefit could be supported, provided that the discharger conduct special studies addressing salt marsh conversion, development of site-specific water quality objectives and effluent limitations for heavy metals, ammonia removal, avian botulism control, and implement mitigation for the past loss and degradation of endangered species habitat consistent with Cease and Desist Order 89-013.
4. In October, 1990, the State Water Resources Control Board (hereinafter called the State Board) directed the Board to amend Order 89-012. State Board Order WQ 90-5 directed that exceptions to the Basin Plan Prohibitions should be addressed based on equivalent protection instead of net environmental benefit. Order WQ 90-5 found that an exception of equivalent protection could be supported if the discharger was given water quality based interim effluent concentration limits for metals, revised performance based mass loading limits for metals, continued requirements for an avian botulism control program, and implemented mitigation consistent with Order WQ 90-5. This Order amends Order 89-012 to comply with the State Board Order.

5. The 1986 Basin Plan did not establish water quality objectives or effluent limitations for heavy metals in South San Francisco Bay. Instead, the Basin Plan established a process for developing site-specific water quality objectives. In order to control heavy metals discharged to the South Bay during the time that site-specific objectives, and subsequent water quality based effluent limits, were being developed, the Board adopted performance based effluent limits for heavy metals in February, 1990.

State Board Order WQ 90-5 directed the Regional Board to adopt both water quality objectives for the South Bay and water quality based effluent limits for the three municipal dischargers.

On April 11, 1991 the State Board adopted water quality objectives for the State in its Bays and Estuaries Plan. Those objectives are applicable to San Francisco Bay below the Dumbarton Bridge.

6. Water quality objectives for both fresh water and salt water exist for the South Bay. The South Bay proper is a saline water body, and is subject to salt water objectives. The San Jose/Santa Clara treatment plant discharges into Artesian Slough, which is subject to tidal inflow during rising tides. The area of discharge contains fresh water, thus the water quality based effluent limits should be based on the more protective of either the fresh or salt water objective. Additional information on water quality and impacts on beneficial uses in the discharge area is being collected by the discharger, and will be used to further consider the point of application of fresh and salt water objectives at the next permit reissuance. Because there remain unresolved issues of effluent toxicity and because of measured exceedances of water quality objectives in South San Francisco Bay, the interim effluent limits in this order do not allow for use of information on effluent dilution supplied by the discharger. That information will be considered at the next permit reissuance, and may result in effluent limits higher than the interim limits in this order.

State Board Order WQ 90-5 recommends that the Board adopt the lower of water quality based effluent limits or the current performance based limits. This Order follows the State Board's guidance on this issue.

7. The information being developed on site-specific objectives will only apply to copper, nickel, lead, and mercury. Effluent limits for arsenic, cadmium, chromium, silver, zinc, and selenium that are contained in this order will be based on existing objectives, and are unlikely to change significantly at the next permit reissuance.
8. When evaluating compliance with the metals concentration limits in this order, the Board will consider the reliability of measures that are in the range of one to five times the detection limit of the analytical method being used. The Board may find non-compliance at values in this range.
9. Past data on metals concentrations in the discharge indicate that violations of some interim concentration limits in this order will be violated. If non-compliance occurs, the Board may issue a Cease and Desist Order containing additional requirements for source control, or in some other way require additional efforts to reduce metals

concentrations in effluent from the treatment plant. Targets for metals reductions would be based on effluent limitations. The discharger is currently implementing a source control program, as required by order 90-068. Source control, including waste minimization, is a more desirable pollutant reduction technique than structural modification at the discharger's plant.

10. State Board Order WQ 90-5 directed the Regional Board to amend the performance based mass loading limits. Order WQ 90-5 specifies that the mass loading limits should be calculated by multiplying the 1989 annual mean effluent concentration for each metal by the 1985-1988 annual average flow. This Order amends the mass loading limits as recommended by the State Board.
11. State Board Order WQ 90-5 required the Board to adopt a numerical chronic toxicity limit for effluent discharged to the South Bay. The State Board recommended a limit of one Toxicity Unit (TU). This Order contains a requirement for a Toxicity Reduction Evaluation/Toxicity Identification Evaluation before the next permit reissuance. The Board intends to adopt a chronic toxicity limit at the next permit reissuance.
12. The discharger has conducted an avian botulism control program for the past two years. The discharger shall continue its avian botulism control program.
13. This action to amend an NPDES Permit is exempt from the provision of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (CEQA) pursuant to Section 13389 of the California Water Code.
14. The discharger and interested agencies and persons have been notified of the Board's intent to amend waste discharge requirements for the existing discharge and have been provided with the opportunity for a public hearing and the opportunity to submit their written views and recommendations.
15. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the discharger, in order to meet the provisions contained in Division 7 of the Clean Water Code and regulations adopted thereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted thereunder, shall comply with the following:

- A. Finding 8 of Order 89-012 shall be amended to read:

Exceptions to the three prohibitions may be considered where the discharger can demonstrate equivalent protection. Equivalent protection can be granted on the grounds that an inordinate burden would be placed on the discharger relative to beneficial uses protected and an equivalent level of environmental protection can be achieved by alternate means. Demonstration of advanced treatment facility reliability is also necessary to grant an exception request. Exceptions can also be granted according to two alternate criteria.

- B. Finding 13 of Order 89-012 shall be amended to read:

The exception request and the Five-Year Water Quality Monitoring Final Report do not support a finding of net environmental benefit and water quality enhancement for the discharge. However, an exception based on "equivalent protection" can be granted to the discharger if certain conditions are met. In order to demonstrate that discharges to the South Bay provide environmental protection equivalent to discharges north of the Dumbarton Bridge, the discharger must have water quality based effluent limits for toxic pollutants. The discharge must be subject to mass loading limits based on average concentration data, and a chronic toxicity limit. In addition, the discharger must continue its avian botulism control program. The discharger must also mitigate for the loss of 380 acres of endangered species habitat (salt marsh) as specified in Order WQ 90-5.

- C. Finding 14 of Order 89-012 shall be amended to read:

Water quality objectives for South San Francisco Bay exist, and are appropriate to use when developing water quality based effluent limits. The discharger is currently conducting studies which may lead to the development of new site-specific objectives for copper, nickel, lead, and mercury. Those proposed objectives, and any subsequent changes in effluent limitations, will be considered at the next permit reissuance. Effluent limits for arsenic, cadmium, chromium, silver, zinc, and selenium that are contained in this order will likely not be revised at the next permit reissuance.

- D. Finding 15 of Order 89-012 shall be amended to read:

Interim controls on heavy metals are needed because of the limited assimilative capacity of South San Francisco Bay. Interim mass loading limits will be revised and refined as the Board's Waste Load Allocation Modelling Program progresses. Final waste load allocations are unlikely to be available at the next permit reissuance.

- E. Effluent Limitation B.4 shall be amended as follows:

4. Interim Concentration Limits for Toxic Pollutants

- a. Prior to permit expiration, the effluent shall not exceed the following limits:

<u>Constituent</u>	<u>1-day Average (ug/L)^(1,2)</u>	<u>4-day Average (ug/L)^(1,2)</u>	<u>Basis for Limit</u>
Arsenic	16	--	Fresh water objective
Cadmium	--	1.6 ⁽³⁾	Fresh water objective
Chromium(IV)	4	--	Performance ⁽⁴⁾
Copper	2.9	--	Salt water objective
Lead	4	--	Performance ⁽⁴⁾
Mercury	0.012	--	Fresh water objective

Nickel	--	8.3	Salt water objective
Silver	2.3	--	Salt water objective
Zinc	--	86	Salt water objective
Selenium	2	--	Performance ⁽⁴⁾

Notes:

⁽¹⁾ Compliance determinations shall be based on available analyses for the time interval associated with the effluent limitation. When only one sample analysis is available in a specified time interval (e.g., 30-day average or 4-day average), that sample shall serve to characterize the discharge for the entire interval. Weekly 24-hour composite samples will routinely be used to measure compliance. Method detection limits for each metal shall be included in each monthly Self-monitoring Report. The discharger shall use the EPA approved methods from 40 CFR, Part 36, when measuring compliance. The discharger shall use the EPA method with the lowest method detection limit.

⁽²⁾ The discharger shall achieve the following practical quantification levels (PQLs) for effluent analyses:

<u>Constituent</u>	<u>Maximum PQL (ug/L)</u>
Arsenic	5
Cadmium	5
Chromium	10
Copper	10
Lead	5
Mercury	1
Nickel	10
Silver	1
Zinc	50
Selenium	5

The PQL is approximately 5X the method detection limit for metals. The listed PQLs are the maximum allowed for compliance monitoring. The discharger shall, by December 31, 1991, have available PQLs for cadmium, copper, and nickel that are 50% of the currently allowed PQLs. The Regional Board may revise the required PQLs if they conclude that improved analytical methods warrant lower PQLs.

When the effluent limitation is greater than or equal to the PQL, compliance determinations shall be determined based on the effluent limitation and either single or multiple sample analyses.

When the effluent limitation is less than the PQL, compliance determinations based on analysis of a single sample shall only be undertaken if the concentration of the constituent of concern in the sample is greater than or equal to the PQL.

When the effluent limitation is less than the PQL, and recurrent analytical responses between the PQL and the effluent limitation occur, compliance shall be determined by review of data and laboratory bench sheets to determine the method detection limit, and, where appropriate the statistical significance of these values.

⁽³⁾ Limits depend on hardness. San Jose/Santa Clara's approximate lowest hardness is 160 mg/L.

⁽⁴⁾ Limits based on plant performance during 1989.

- F. Provision B.4.b is deleted.
- G. Provision B.6.a shall be amended as follows:

6. Prior to permit expiration, the effluent mass loadings shall not exceed the following interim limits:

<u>Constituent</u>	<u>Annual Average (lbs/year)</u>
Arsenic	2848
Cadmium	356
Chromium(VI)	712
Copper	3404
Lead	712
Mercury	71
Nickel	4272
Silver	1068
Zinc	22784
Cyanide	14240
Phenols	1068
PAHs	4628
Selenium	712

Notes:

(1) In calculating compliance, the discharger will count all non-detect measures at the detection level. Compliance will be based on annual average loading. Mass loading should be calculated for each analytical result (calculate loading by using weekly total flow data).

- H. The following shall be added to Provision 5.d:

The discharger shall submit a study plan for a Toxicity Reduction Evaluation/Toxicity Identification Evaluation (TRE/TIE) that is acceptable to the Executive Officer by June 1, 1991. The TIE will be conducted before the next permit reissuance.

I, Steven R. Ritchie, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on April 17, 1991.



Steven R. Ritchie
Executive Officer